

Emergency Bill No. 28-01  
Concerning: Tenant Displacement -  
Revisions  
Revised: Dec. 4, 2001 Draft No. 7  
Introduced: July 31, 2001  
Enacted: December 4, 2001  
Executive: December 13, 2001  
Effective: January 15, 2002  
Sunset Date: None  
Ch. 32, Laws of Mont. Co. 2001

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

---

By: Council President at the Request of the County Executive

---

**AN EMERGENCY ACT to:**

- (1) [[extend the applicability of]] apply the tenant displacement law to multi-family dwellings containing [[a certain number of]] fewer units;
- (2) clarify when the right of first refusal applies;
- (3) extend the time for a tenant organization to exercise the right of first refusal;
- (4) restrict a tenant organization's ability to exercise the right of first refusal under certain conditions;
- (5) change the relocation assistance and extend the notice [[requirements provided]] that an owner is required to provide to displaced tenants;
- (6) make conforming stylistic and technical changes; and
- (7) generally amend County law regarding tenant displacement.

By amending

Montgomery County Code  
Chapter 53A, Tenant Displacement

<b>Boldface</b>	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by original bill.</i>
<b>[Single boldface brackets]</b>	<i>Deleted from existing law by original bill.</i>
<u>Double underlining</u>	<i>Added by amendment.</i>
<b>[[Double boldface brackets]]</b>	<i>Deleted from existing law or the bill by amendment.</i>
* * *	<i>Existing law unaffected by bill.</i>

*The County Council for Montgomery County, Maryland approves the following Act:*

**Section 1. Chapter 53A is amended as follows:**

**53A-1. Legislative findings.**

The County Council finds that:

(a) there is a continuing, severe shortage of low and moderate-income **rental housing** in the County;

[(b) the decline of **rental housing** units as a proportion of the County's total housing stock is likely to continue;]

[(c)]

(b) **tenants** often experience significant hardship when they are displaced by **conversion** of **rental housing**; and

[(d)]

(c) it is in the best interests of public health, safety, and welfare to regulate the **conversion** of **rental housing** in the [county] County.

**53A-2. Definitions.**

(a) **Convert** and conversion mean[s]:

(1) (A) changing the use of **rental housing** to nonresidential use;

[(2)]

(B) [demolition of] demolishing at least one-third of the units in rental housing in a 12-month period;

[(3)]

(C) displacing **tenants** from at least one-third of the occupied units in **rental housing** [within any] in a 12-month period by:

[(A)]

(i) raising rents; or

[(B)]

(ii) preparing to rehabilitate the **rental housing**; or

28 [(4)]

29 (D) any other act [which has the effect of ceasing the  
30 operation] that ends the use of the property as **rental**  
31 **housing**.

32 (2) **Conversion** does not include establishing a condominium or  
33 cooperative.

34 (b) **Department** means the **Department of Housing and Community**  
35 **Affairs**.

36 [(b)]

37 (c) **HOC** means the Montgomery County Housing Opportunities  
38 Commission.

39 [(c)]

40 (d) **Owner** means a person holding **title** to **rental housing**.

41 [(d)]

42 (e) **Rental housing** means a multiple-family dwelling, or a group of  
43 multiple-family dwellings operated as one entity, with a total of at least  
44 [10] 4 rental units. **Rental housing** does not include a dwelling operated  
45 for a religious or charitable purpose.

46 [(e)]

47 (f) (1) **Sale, sell, or selling** mean[s]:

48 (A) transfer of **title** to **rental housing**;

49 [(2)]

50 (B) transfer in a 12-month period of [at least 51 percent of a  
51 partnership, limited partnership, corporation, or trust] a  
52 majority interest in the [that has **title** to **rental housing**]  
53 owner; or

54 [(3)]

(C) lease of **rental housing** for more than 7 years.

- (2) These terms do not include entering into a contract for the sale of rental housing that gives the County, HOC, or a tenant organization a right of first refusal under this Chapter.

[(f)]

(g) **Tenant** means [a person] an individual who lives in a **rental housing** unit with the **owner's** consent and is responsible for paying rent to the owner.

[(g)]

(h) **Tenant organization** means an association of **tenants** of **rental housing** that:

- (1) represents **tenants** of [at least 5 units or 30 percent] [[a majority]] at least [[40]] 30 percent of the occupied [rental] units [of] in the rental housing[, whichever is greater]; and
- (2) is certified by the **Department** [of Housing and Community Affairs under] according to Executive regulations [adopted by the County Executive under method (2)].

[(h)]

(i) **Title** means:

- (1) a legal or equitable ownership interest in **rental housing**; or[;]
- (2) a legal, equitable, or beneficial interest in a partnership, limited partnership, corporation, [or] trust, or other person who is not an individual, that has a legal or equitable ownership interest in **rental housing**.

**53A-3. Notice of sale.**

**(a) Notice required.**

**(1) Within 5 days after an owner enters into a bona fide contract of sale to sell rental housing, the owner must provide written notice of the sale:**

**(A) to each tenant in the rental housing by first class mail;**

**(B) posted in the public areas of the rental housing; and**

**(C) to the Department with a list identifying each tenant and the tenant's address.**

**(2) The notice of sale must offer to sell the rental housing to any tenant organization under Section 53A-4, and include any other information required by Executive regulations.**

**(b) Tenant organization.** If there is no certified **tenant organization** for the **rental housing** when the notice of the **sale** is due under subsection (a), then a **tenant organization** may be formed to exercise the right of first refusal if the **Department** certifies the **organization** within 45 days after the **owner** provides notice to the **tenants** under subsection (a).

**53A-[3]4. Right of first refusal to buy rental housing.**

**(a) [Offer of right] Right of first refusal.** An **owner** must offer the County, **HOC**, and any **tenant organization** [a] the right [of first refusal] to buy rental housing before selling the rental housing to another party, [unless the buyer signs a 3-year agreement not to **convert** the **housing** that the **Department** of Housing and Community Affairs approves] except as provided under [subsection (e)] Section 53A-5.

**(b) Requirements for offer.** [The] An offer required by subsection (a) must:

**(1) be in writing;**

(2) be sent by certified mail, return receipt requested, within 5 business days after:

(A) the execution of a bona fide contract of **sale**, for the County, HOC, and any existing **tenant organization**; or

(B) the **Department** certifies a **tenant organization**, for a new **tenant organization** formed under Section 53A-3(b);

[(2)]

(3) include substantially the same terms and conditions as a pending bona fide [pending] contract of **sale** from a third party to buy the **rental housing**; and

[(3)]

(4) remain open for:

(A) 60 days after it is received [by], for the County[,], and **HOC**[,]; and

(B) 90 days after it is received by any **tenant organization**, including a new **tenant organization** formed under Section 53A-3(b).

[(b)]

(c) *Information and inspection.* The **owner** must give the County, **HOC**, and any **tenant organization**:

(1) any information about the **rental housing** relevant to [the exercise of] exercising the right of first refusal, [[including]] such as architectural and engineering plans and specifications, and operating data; and

(2) access to the **rental housing** [for] to inspect[ion] the property and conduct reasonable tests at reasonable times [and] after reasonable notice.

The County, **HOC**, and any **tenant organization** must pay the **owner** a reasonable deposit for any architectural and engineering plans that the owner provides. The **owner** must refund the deposit when the plans are returned to the **owner**. The County Executive must [adopt] issue regulations [under method (2)] to implement this subsection.

[(c)]

(d) *Exercise of right of first refusal.* [Within 60 days after receiving the offer, the]

(1) The County, **HOC**, or a **tenant organization** may exercise the right of first refusal by accepting the offer [to buy the **rental housing**] within the applicable period under subsection (b)(4).

The County and **HOC** [must not] may accept an offer to buy **rental housing** [located] in a municipality [without the approval of] only if the [municipality's governing body] municipality approves.

(2) The **owner** must **sell** the **rental housing** under the right of first refusal if the acceptance includes[: (1)] substantially the same terms and conditions contained in the **owner's** [offer] bona fide contract of sale with the third party, including any contract term that provides for a bona fide real estate commission payable to an independent broker[:] [[and]] [(2) a 180-day] [[any financing contingency]]. Notwithstanding this general requirement or any term of the contract, the County, **HOC**, or a **tenant organization** may condition its acceptance on obtaining financing at any time before the deadline in paragraph (3) for completing the sale.

(3) [[A]] The **owner** and the County, **HOC**, or **tenant organization** must complete a **sale** under this subsection [[must be completed]] within 180 days after [receipt of] the County, **HOC**, or **tenant organization** receives the **owner's** offer unless the [parties agree] **owner** agrees to extend [this] the 180-day period.

(4) Before a **tenant organization** completes a sale under paragraph (3), a majority of all of the **tenants** must ratify the purchase.

(5) The right of first refusal applies in the following order of priority:

(A) the County [has first priority and];

(B) **HOC** [has second priority in the exercise of the right of first refusal. If more than one] ; and

(C) any **tenant organization** [exercises the right of first refusal, a priority among the **tenant organizations** must be established by lottery. The County Executive must adopt criteria in regulations under method (2) for County exercise of the right of first refusal which will preserve economically viable low and moderate-income **rental housing** in the County].

[[ (5) ]]

(6) The Executive must issue regulations that establish procedures and guidelines for exercising the County's right of first refusal.

[[ (e) **Tenant organization ownership interest.** [[If]] The Executive may issue regulations under method (2) to require a **tenant organization** that joins with a third party to purchase the **rental housing** [, the **tenant organization** must]] to maintain [[at least]] a [[15-percent ownership]] certain property interest in the **rental housing**. If the Executive issues a regulation under this subsection, the regulation must specify:



- (1) how long the **organization** must maintain the interest;  
 (2) the acceptable forms of ownership or other property interest; and  
 (3) the consequences of failing to maintain the property interest. ]]

[(d)]

[[f)]

(e) *Expiration of right of first refusal.* If the County, **HOC**, and any **tenant organization** do not exercise their [right] rights of first refusal within [60 days after receiving the offer, the offer expires. After the offer expires] [[within]] the applicable period under subsection (b)(4), the owner may sell the rental housing to [any other purchaser] the third party buyer under substantially the same terms and conditions offered to the County, **HOC**, and [each] any tenant organization.

[[g)]

(f) *Immunity.* The County, **HOC**, and any **tenant organization** are not liable for any [damage caused by their] damages incurred by the owner, a third-party buyer, a tenant, or any other person in connection with a decision [not] to exercise [their] or not exercise a right of first refusal under this Section.

**53A-5. Sales not requiring right of first refusal.**

[(e)]

(a) *[Three-year agreement] Agreement not to convert.*

- (1) An **owner** may **sell rental housing** without [offering the] providing any right of first refusal [required by subsection (a)] under Section 53A-4 if [: (1)] the Department approves a written agreement that:

(A) prohibits the buyer [(A) agrees in writing not to **convert**]  
from **converting** the **rental housing** for [3] at least 5 years  
after the **sale**; [[and]]

(B) [submits the agreement to] the **Department** [of Housing  
and Community Affairs] received from the prospective  
buyer at least 30 days before the **sale**; and

(C) except as provided in [[subsection (c)]] paragraph (2)(B),  
requires the buyer to follow the voluntary rent increase  
guidelines published annually under Section 29-53 [[for]]  
during:

- (i) [[all **tenants** who resided in the **rental housing**  
when the **Department** approved the agreement,  
during]] the first 3 years of the agreement, for all  
**tenants** who resided in the **rental housing** when the  
**Department** approved the agreement; and
- (ii) [[at least]] the last 2 years, for [[up to 20 percent]]  
each of these **tenants** [[who qualify]] [[, if the  
**tenant**]] who qualifies as a low- or moderate-  
income **tenant**[[s]] under **Department** regulations  
[[, during the last 2 years of the agreement]].

(2) [the **Department** approves the agreement, including any  
proposed rent increases and rehabilitation of the housing.] The  
**Department** [must consider] may:

(A) approve or reject an agreement with the buyer under this  
subsection only after considering the:

[(A)]

- (i) physical condition of the **rental housing**, including  
any rehabilitation necessary to correct dangerous  
 defects;

[(B)]

- (ii) **tenants'** ability to afford rent increases; and

[(C)]

- (iii) need to preserve low- and moderate-income **rental housing** in the County[[]];

[The County Executive must adopt regulations under method (2) to implement this Section, including criteria for evaluation of 3-year agreements and that limit any **tenant** displacement resulting from rent increases and rehabilitation during the term of the agreement to less than one-third of the **tenants** in any 12-month period.]

- (B) allow the buyer to increase rents above the limits in paragraph (1)(C) only when the **Department** decides that a greater increase is justified by:

- (i) unforeseen circumstances beyond the buyer's control; or

- (ii) necessary rehabilitation to the **rental housing**.

- (3) The **Department** annually must verify the buyer's compliance with the rent increase limits required by this [[Section]] subsection.

- (b) *Other exceptions.* An **owner** also does not have to provide a right of first refusal for a **sale**:

- (1) under the terms of a bona fide mortgage or deed of trust;

- (2) to a mortgagee in lieu of foreclosure;

- (3) under a court order;

- (4) from one co-tenant to another co-tenant by operation of law;
- (5) under a will or intestate distribution;
- (6) to the State or a local government;
- (7) of a minority **title** interest;
- (8) of a mobile home park; or
- (9) of **rental housing** for which the initial building permit was issued  
after February 5, 1981.

**53A-[4]6 . Conversion of rental housing.**

- (a) *Notice of conversion.* An owner must [give a] not convert rental housing unless the owner notified each tenant in the rental housing [60] at least 120 days [written notice] before converting the building [in which the tenant lives]. [[During the]] Before renting to a prospective tenant during this 120-day period, the owner must [[not rent to a new tenant unless the owner has notified]] notify the prospective tenant about the conversion
- (b) *Termination of lease.* [After receiving] A tenant who receives a notice of **conversion** [, a tenant] may terminate a lease without penalty [by giving] at least 30 days after notifying the owner [30 days written notice] in writing.
- (c) *Tenant relocation assistance.* The owner must [reimburse] pay a tenant [for reasonable moving expenses by paying the tenant a maximum of \$950 in] relocation assistance equal to [[two]] 2 months' rent if the tenant moves out of the rental housing within 180 days after [receiving a] the tenant received the notice of conversion required by subsection (a). [because:
  - (1) the **housing** is changing to a nonresidential use;

(2) at least one-third of the **housing** is being demolished in a 12-month period.

(3) the **tenant** determines they cannot afford a proposed rent increase; or

(4) the **tenant** must leave a unit during rehabilitation and no comparable unit in the **housing** is available for the **tenant's** use.

The **tenant** must give the **owner** reasonable proof of moving expenses paid by the **tenant** before receiving relocation assistance, except that the **owner** must pay a low-income **tenant** \$475 before the **tenant** moves as an advance against the **tenant's** relocation assistance.]

The **owner** must pay the relocation assistance not more than 10 days after the **owner** received the **tenant's** notice of termination under subsection (b).

[(d) The County Executive must adopt regulations under method (2) to implement this Section.]

#### **[53A-5. Exemptions.]**

[This Chapter does not apply to a **sale**:

- (a) made under the terms of a bona fide mortgage or deed of trust;
- (b) to a mortgagee in lieu of foreclosure;
- (c) under a court order;
- (d) from one cotenant to another cotenant by operation of law;
- (e) under a will or intestate distribution;
- (f) to a municipal, county, or state government;
- (g) of a minority **title** interest;
- (h) of a mobile home park; or
- (i) of **rental housing** for which the initial building permit was issued after February 5, 1981.]

**53A-[6]7. Certificate of compliance.**

[On receipt of satisfactory proof of compliance, the] **The Department** [of Housing and Community Affairs] must issue a certificate of compliance for rental housing to the **owner, the buyer, or any** other interested party, in a form appropriate for recordation in the land records, [certifying] when the Department determines that the requirements of this Chapter [are] have been satisfied [with respect to the **rental housing**]. [A] The certificate [of compliance] is conclusive evidence [that the requirements of] of compliance with this Chapter [have been satisfied].

**53A-[7]8. Complaints.**

[(a) Complaints to **Department** of Housing and Community Affairs]. Any person [subjected to a practice made unlawful in] harmed by an owner, buyer, tenant organization, or any other person who violates this Chapter may file a written complaint with the **Department**, [of Housing and Community Affairs. The **Department** has all of the powers and duties granted it in Chapter 11 to respond to a complaint filed under this Chapter.]

[(b) Other legal rights. This Chapter does not limit a person from exercising any other legal right available to that person.]

**53A-9. Enforcement.**

(a) The Department may enforce this Chapter by:

- (1) investigating any alleged violation;
  - (2) issuing a summons or subpoena to compel the attendance of a person or the production of documents or other evidence;
  - (3) enjoining a violation;
  - (4) revoking a rental license issued under Chapter 29;
  - (5) reporting a violation to any other appropriate government agency;
- [[5]]

(6) informal conciliation between a complainant and an alleged violator;

[(6)]

(7) dismissing a complaint when the Director of the **Department** determines that there is insufficient evidence of a violation;

[(7)]

(8) obtaining injunctive or other appropriate judicial relief, such as an order to:

(A) require compliance with a summons or a subpoena;

(B) require an alleged violator or witness to attend a **Department** meeting or other proceeding concerning the alleged violation;

(C) require production of documents or other evidence;

(D) require transfer of documents or other evidence to the Court; or

(E) prohibit the destruction of documents or other evidence;

[(8)]

(9) recovering costs and fees of an investigation or a lawsuit if the **Department** finds a violation occurred, and prevails in any appeal;

[(9)]

(10) ordering any appropriate financial, legal, or equitable relief to a **tenant or tenant organization** injured by a violation of this Chapter;

(11) any other applicable enforcement action that the **Department** could take to enforce a violation of Chapter 11 (Consumer

Protection) or Chapter 29 (Landlord-Tenant Relations), under the  
procedure provided in the respective Chapter;

(12) developing, conducting, or assisting in educational and  
information programs concerning the requirements of this  
Chapter; and

[(10)]

(13) adopting regulations to implement this Chapter.

(b) Any sale of rental housing in violation of this Chapter is void.

(c) This Chapter does not limit any other legal right available to a person.

**53A-[8]10. [Penalty for violation] Penalties.**

[Any] A violation of this Chapter or a regulation adopted under this Chapter is  
a class A violation. [Any sale of in violation of this Chapter is void. The County  
Attorney may seek injunctive or other appropriate court orders to enforce this  
Chapter.] A violation may be punished as a separate violation for each unit in the  
rental housing affected by the violation for each day the violation exists.

**53A-[9]11. Annual reports to the Council.**

By February 1 of each year, the County Executive must report to the Council  
on activities under this Chapter for the prior calendar year, including:

(a) [offers] any offer of a right of first refusal received by the County;

(b) [3-year agreements] any agreement not to **convert** that the Department  
approved; and

(c) **conversion of rental housing** in the County.

**[53A-10. Sunset date.]**

[Sections 53A-1 through 53A-9 are not effective after June 30, 2002.]



**Sec. 2.      Emergency Effective Date.**

The Council declares that an emergency exists and that this legislation is necessary for the immediate protection of the public health and safety. This Act takes effect on January 15, 2002.

*Approved:*

/S/	December 7, 2001
Steven A. Silverman, President, County Council	Date

*Approved:*

/S/	December 13, 2001
Douglas M. Duncan, County Executive	Date

*This is a correct copy of Council action.*

/S/	December 17, 2001
Mary A. Edgar, CMC, Clerk of the Council	Date